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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

IN THE MATTER OF THE APPLICATION OF  
THE CITY OF PHOENIX TO CLOSE THE  
EAST SIDE OF THE 1<sup>ST</sup> AVENUE RAILROAD  
PEDESTRIAN CROSSING AT THE TRACKS  
OF THE UNION PACIFIC RAILROAD  
BETWEEN JACKSON STREET AND  
BUCHANAN STREET, IN THE CITY OF  
PHOENIX, MARICOPA COUNTY, ARIZONA,  
AT AAR/DOT NO. 741-472-S.

DOCKET NO. RR-03639A-09-0373

PROCEDURAL ORDER

**BY THE COMMISSION:**

On July 27, 2009, the City of Phoenix ("City") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Union Pacific Railroad ("Railroad") to close an existing pedestrian crossing at the Railroad's tracks on the east side of 1<sup>st</sup> Avenue between Jackson Street and Buchanan Street, in Phoenix, Arizona, at AAR/DOT No. 741-472-S.

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the request of the City shall be considered an application to close an existing pedestrian crossing pursuant to A.R.S. § 40-337, et seq.

IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this proceeding.

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **November 10, 2009, at 9:30 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Hearing Room 1, Phoenix, Arizona.

IT IS FURTHER ORDERED that within five business days of receipt of this Procedural Order, **THE CITY OF PHEONIX SHALL PROVIDE THE RAILROAD, MARICOPA**

COUNTY ANY OTHER GOVERNMENTAL AGENCY OR INTERESTED PARTY that may be affected by the application with a copy of the application and this Procedural Order by certified mail.

IT IS FURTHER ORDERED that Safety Division, Railroad Safety Section ("Staff") shall prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of them with Docket Control on or before 4:00 p.m. on **October 9, 2009**.

IT IS FURTHER ORDERED that any **objections to the Staff Report and associated exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on **October 19, 2009**.

IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-105, except that all motions to intervene must be filed on or before **October 16, 2009**.

IT IS FURTHER ORDERED that the City of Phoenix shall provide public notice of the hearing in this matter, in the following form and style:

**PUBLIC NOTICE OF THE HEARING IN THE MATTER OF THE APPLICATION OF THE CITY OF PHOENIX TO CLOSE THE EAST SIDE OF THE 1<sup>ST</sup> AVENUE RAILROAD PEDESTRIAN CROSSING AT THE TRACKS OF THE UNION PACIFIC RAILROAD BETWEEN JACKSON STREET AND BUCHANAN STREET, IN THE CITY OF PHOENIX, MARICOPA COUNTY, ARIZONA, AT AAR/DOT NO. 741-472-S. (DOCKET NO. RR-03639A-09-0373)**

On July 21, 2009, the City of Phoenix ("City") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Union Pacific Railroad ("Railroad") to close an existing pedestrian crossing at the Railroad's tracks on the east side of 1<sup>st</sup> Avenue between Jackson Street and Buchanan Street, in Phoenix, Arizona, at AAR/DOT No. 741-472-S.

The application is available for inspection during regular business hours at the offices of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona, and on the internet via the Commission website ([www.azcc.gov](http://www.azcc.gov)) using the e-docket function.

The Commission will hold a hearing on this matter commencing on **November 10, 2009, at 9:30 a.m.**, at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Public comment will be taken on the first day of the hearing.

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Intervention shall be permitted to any person entitled by law to intervene and having a direct and substantial interest in the matter. Persons desiring to intervene must file a written motion to intervene with the Commission, which motion should be sent to Applicant or its counsel and to all

parties of record, and which, at the minimum, shall contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different than the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of Railroad, a neighboring property owner, a crossing user, etc.).
3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicant or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before **October 16, 2009**. If representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme Court, intervention will be conditioned upon the intervenor obtaining counsel to represent the intervenor. For information about requesting intervention, visit the Arizona Corporation Commission's webpage at <http://www.azcc.gov/utility/forms/index.htm>. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any customer from appearing at the hearing and making a statement on such customer's own behalf.

If you have any questions about this application, you may contact the applicant at **[insert telephone number]**. If you wish to file written comments on the application or want further information on intervention, you may write the Consumer Services Section of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007 or call 602-542-4251 or 1-800-222-7000 or appear at the hearing and make comment.

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602/542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov). Requests should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that the City of Phoenix shall cause the above notice to be published at least once in a newspaper of general circulation in the city where the crossing is located, with **publication to be completed no later than September 14, 2009.**

IT IS FURTHER ORDERED that the **City of Phoenix shall post visible signs** within 10 feet of each side of the approach to the pedestrian crossing notifying the public of the proposed closure **no later than September 14**, in the following form and style:

#### NOTICE

AN APPLICATION HAS BEEN FILED WITH THE ARIZONA CORPORATION COMMISSION TO CLOSE THIS PEDESTRIAN CROSSING. THE COMMISSION WILL HOLD A HEARING ON THIS MATTER COMMENCING ON **NOVEMBER 10, 2009, AT 9:30 A.M.**, AT THE COMMISSION'S OFFICES, 1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA. PUBLIC

COMMENT WILL BE TAKEN ON THE FIRST DAY OF THE HEARING. PUBLIC CONCERNS CAN BE MADE IN WRITING TO THE RAILROAD SAFETY SECTION, C/O ARIZONA CORPORATION COMMISSION, 1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 86007, OR CALL 602-542-4251 OR 1-800-222-7000 OR APPEAR AT THE HEARING AND MAKE COMMENT.

Sign specifications are as follows:

- a. a metal sign with 1-1/2" black letters on white background;
- b. mounted on 4" x 4" wood post or a sturdy steel post which is at least 5-1/2' tall.

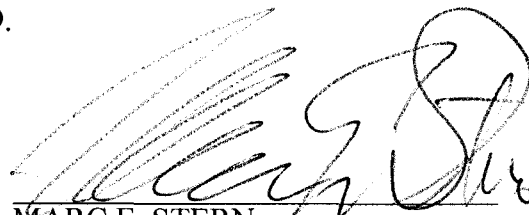
IT IS FURTHER ORDERED that notice shall be deemed complete upon the publication of same, notwithstanding the failure of an individual or entity to read or receive the notice.

IT IS FURTHER ORDERED that **THE CITY OF PHOENIX SHALL FILE CERTIFICATION OF NOTICE WITH THE COMMISSION'S DOCKET CONTROL AS SOON AS PRACTICABLE** after the publication of notice ordered herein has been completed.

IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules of the Arizona Supreme Court and A.R.S. §40-243 with respect to practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 13<sup>TH</sup> day of August, 2009.

  
MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

1  
2 Copies of the foregoing mailed/delivered  
this 12th day of August, 2009 to:

3 Syd Anderson, P.E.  
4 Engineering Supervisor  
5 CITY OF PHOENIX  
6 Street Transportation Department  
1034 East Madison Street  
Phoenix, AZ 85034

7 Aziz Aman, Manager of Special Projects  
8 UNION PACIFIC RAILROAD COMPANY  
2073 East Jade Drive  
Chandler, AZ 85286-4898

9 Robert Travis, PE, State Railroad Liaison  
10 Utilities & Railroad Engineering Section  
ARIZONA DEPARTMENT OF TRANSPORTATION  
205 South 17<sup>th</sup> Avenue, Room 357  
11 Mail Drop 618E  
Phoenix, AZ 85007-3212

12 Janice Alward, Chief Counsel  
13 Legal Division  
ARIZONA CORPORATION COMMISSION  
14 1200 West Washington Street  
Phoenix, Arizona 85007

15 Brian Lehman, Chief  
16 Railroad Safety Section  
ARIZONA CORPORATION COMMISSION  
17 1200 West Washington Street  
Phoenix, Arizona 85007

18 ARIZONA REPORTING SERVICE, INC.  
19 2200 North Central Avenue, Suite 502  
20 Phoenix, AZ 85004-1481

21  
22 By: 

23 Debra Broyles  
24 Secretary to Marc E. Stern  
25  
26  
27  
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